

**UNITED STATES DISTRICT COURT**

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS					
<p>ZESTEE FOODS, INCORPORATED, Plaintiff,</p> <p>VS</p> <p>UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation, Defendant and Third Party Pltf.</p> <p>VS</p> <p>JERRY WILKES, Third Party Defendant.</p>		<p>For plaintiff:</p> <p>Jay C. Baker Mayo Building Tulsa, Okla. 74103</p> <p> </p> <p>For defendant:</p> <p>Edgar Fenton 405 Investors Capital Bldg. Okla. City, Okla. 73102 235-4671 (for Deft. &amp; 3rd Party Pltf.-U.S. Fidelity and Guaranty Co.)</p> <p>Robert J. Turner(Wilkes) 236-1646 515 Hightower Building Oklahoma City, Oklahoma 73102</p>					
STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.	
J.S. 5 mailed 2-1-73 4-1-74	Clerk		1-17-73 1-18-73	Baker CD 32	15 00	15.00	
J.S. 6 mailed 3-1-74 4-1-74	Marshal						
Basis of Action: Judgment on written contract of ins.	Docket fee						
	Witness fees						
Action arose at:	Depositions						

DATE	PROCEEDINGS	Date Order or Judgment Noted
1-17-73	Complaint, filed. Summons issued. hm	
1-31-73	Return on service of summons. Served U.S. Fidelity & Guaranty Co. by serving Joe B. Hunt, State Ins. Comm at Okla. City on 1-18-73. (\$4.72)	USM
2-8-73	Answer of Deft. and Third Party Pltf. U.S. Fidelity and Guaranty Co., filed. v (with third party complaint) Summons issued.	
2-23-73	U.S. Marshal's service returned and filed; served third party summons on Jerry Wilkes, Oklahoma City, Okla., 2-13-73 (USM fees \$4.00)jj	
3-5-73	Motion of third party deft. Wilkes for more definite statement, with permission granted to file motion, filed. (LB-J)hm	
3-26-73	Case called for hearing on motion of 3rd party deft. Wilkes for more definite statement. Motion granted; pltf. to answer motion within 10 days & deft. to file answer to complaint within 20 days thereafter. (LB-J)hm	
3-28-73	Response of pltf. to motion for more definite statement, filed. hm	
5-31-73	Answer of third party defendant Jerry Wilkes, with leave granted to file out of time, filed. (LB-J)hm	
7-2-73	Claim of Attorney's Lien, filed. jj	
7-5-73	Case set for pre-trial hearing 7-19-73 at 1:30 p.m. (LB-J)hm	
7-19-73	Pre-trial hearing held. Statements made. Pltf. to prepare pre-trial order within 45 days. Case to be set for non-jury trial, and by agreement of counsel, the <u>trial will be held in Okla. City. (EST-1 day)</u> (LB-J)hm	
8-23-73	Stipulations re deposition, filed, with permission to file stipulations. (LB-J)hm	
9-6-73	Stipulations re pre-trial order, filed, that time for filing pre-trial order is extended to 9-24-73. (LB-J)hm ((copies mailed))	
9-20-73	Case set for non-jury trial in Okla. City on 10-17-73 at 9:30 a.m. (LB-J)hm	
9-20-73	Deposition of H. E. Mathews, filed. hm	
9-20-73	Notice of filing deposition, filed. ds	
10-5-73	Ordered that case is stricken from non-jury assignment of 10-17-73 in Okla. City, to be reset. (LB-J)hm	
11-26-73	Case set for non-jury trial 12-10-73 at 1:30 p.m. (LB-J)hm	
12-10-73	Case stricken from non-jury trial of this date, to be reset in Okla. City. (LB-J)hm	
12-17-73	Pre-trial order, filed. (LB-J)rm	
1-29-74	Case set for non-jury trial <u>in Okla. City</u> on 2-11-74 at 10:00 a.m. (LB-J)hm (notices mailed)	
2-7-74	Motion of third party deft. Wilkes for S/J, filed. hm	
2-7-74	Motion of deft. USF&G for S/J, filed. hm	
2-7-74	Brief in support of deft's motion for S/J, filed. hm	
2-11-74	Case tried to the Court Feb. 11 & 12th, 1974, in <del>Okla</del> Oklahoma City. Parties (cont.)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-12-74	announce ready. At close of pltf's evidence and upon pltf. resting, defts' motion for dismissal and S/J denied. Parties rest. Court finds in favor of pltf. in the amt. of \$42,000 against deft. USF&G and USF&G to recover as against third party deft. Wilkes. Pltf. to prepare and file F/F & C/L and Order and present to Court. (LB-J)hm Trial exhibits, filed. hm <i>filed as exhibit with LB</i> (per Bud Bailey)	
2-21-74	Pltf's Bill of Costs, filed. Costs to be set by Clerk on 3-4-74 at 10:00 a.m. e	
2-21-74	Findings of Fact and Conclusions of Law, filed and entered. (LB-J)rm (Appeal time to commence at this time)	
2-21-74	Judgment, filed and entered, that def. U. S. Fidelity have & recover of 3rd pty def., Jerry Wilkes, the sum of \$42,000, w/int. at 6% from 1/16/73 to date of this judg. and thereafter at 10% per annum. (LB-J)rm <i>copies mailed</i>	
3-4-74	<del>Motion of defendant &amp; 3rd party deft. for new trial and to amend findings of fact and conclusions of law, with memorandum of authority,</del> filed with leave of Court. g	
3-21-74	Order, filed, that the Findings of Fact & Conclusions of Law entered 2-21-74, be set aside & expunged from the record. (LB-J)v -cps mld.	
3-21-74	Mot. of Pltf. for Order of the Court Dismissing the Action on the Merits, filed. v -cps. mld.	
3-21-74	Order, filed and entered, that this <u>cause be dismissed</u> on the merits with prejudice to a future action. (LB-J)v -cps. mld.	

DATE	PROCEEDINGS	Date Order or Judgment Note